

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Advanced Television Systems
and Their Impact on the
Existing Television Broadcast
Service

Review of Technical and
Operational Requirements:
Part 73-E, Television Broadcast
Stations

Reevaluation of the UHF Television
Channel and Distance Separation
Requirements of Part 73 of the
Commission's Rules

TO: The Commission

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AUG 17 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MM Docket No. 87-268

REPLY COMMENTS OF FUTURE IMAGES TODAY

Respectfully submitted,

FUTURE IMAGES TODAY

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August 17, 1992

No. of Copies rec'd 0+9
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REPLY COMMENTS OF FUTURE IMAGES TODAY

Future Images Today (FIT), through its counsel and pursuant to Section 1.415(c) of the Commission's Rules, submits the following reply comments in the above-captioned proceeding and in accordance with the Commission's Second Report and Order/Further Notice of Proposed Rule Making released May 8, 1992.

I. An Advanced Television (ATV) Broadcast Service Can be Implemented Only By Procedures That Provide a Smooth Transition for Existing Broadcasters and Viewers

1. FIT's Comments filed December 20, 1991, stated that acceptance of ATV by consumers would be assured by providing broadcast compatibility with the millions of existing NTSC receivers now owned by viewers in the United States. FIT suggested that adoption of a fully compatible ATV standard "would leave it up to the viewer, rather than the Commission, to decide when a new ATV receiver should be purchased in order to enjoy the increased clarity of ATV broadcasting."¹

2. Comments filed by the National Telecommunications and Information Administration (NTIA) likewise ask the Commission to ensure that the rights of television viewers in the United

¹ FIT Comments filed December 20, 1991, at page 9.

States are protected. As the NTIA warns, "[a]lthough the Commission should have a role in facilitating the development of ATV, consumers, not the Commission, should ultimately determine the extent of ATV's success in the marketplace."² FIT agrees wholeheartedly.

3. FIT supports the NTIA's suggestion that broadcasters should have the option to elect to provide either NTSC or an ATV service, rather than be forced to convert entirely to ATV by a given deadline failing which existing broadcasters will lose their television broadcasting rights altogether.³ The NTIA recognizes and FIT agrees that by requiring complete broadcaster conversion to ATV by a specific deadline date, consumers will be forced to acquire potentially very high-priced television receivers in order to continue to view American television broadcasting in any form. FIT supports the NTIA's plea that the Commission not "take actions that even indirectly compel all consumers to make investments in ATV receivers if such investments are not in their interest."⁴

4. FIT also supports comments filed by Sutro Tower, Inc., a broadcast tall tower and building facility in the San Francisco Bay Area, calling for greater flexibility on the part

² NTIA Comments filed July 17, 1992, at 15-16.

³ NTIA Comments, at 14-17.

⁴ NTIA Comments, at 16.

of the Commission with respect to deadlines for ATV conversion. Broadcasters simply can not be expected under the current deadlines to construct entirely new ATV transmitting facilities, including adequate tower and antenna configurations, in order to provide satisfactory viewer coverage in all market areas.⁵ Local zoning requirements, geographic terrain and radiation pattern characteristics can easily combine to render the task of ATV conversion prohibitively expensive if not impossible under the present plan. Technical, administrative and financial problems faced by broadcasters during the ATV conversion period could all be greatly diminished if the Commission requires any newly adopted ATV signal standard to be compatible with existing NTSC receivers.⁶ Such a new standard, which is supported by FIT's proposed transmission system, would allow broadcasters to transmit ATV from their existing station facilities and over their current channel allocation. The lack of suitable broadcast TV antenna space on legally acceptable tower structures, a genuine concern under the present conversion plan,⁷ would then cease to delay the implementation of ATV service.

5. The American Telephone and Telegraph Company (AT&T) speculated about the availability of future HDTV-to-NTSC

⁵ Sutro Tower Comments, filed July 17, 1992, at 3-4.

⁶ See Comments of Brechner Management Company, dated July 10, 1992.

⁷ Sutro Tower Comments, at 3-4.

converter boxes.⁸ AT&T projected that the cost of such consumer converters could "fall" to the \$200 range (in today's dollars) by the end of the 15-year ATV broadcast conversion period now advocated by the Commission. No projection was made of the initial cost to consumers for the HDTV-to-NTSC converter boxes. AT&T considers its projected availability of converter boxes a sufficient mechanism to bring the ATV conversion period to a close, without forcing consumers to purchase more costly HDTV receivers if they want to continue to view broadcast television.⁹ But those consumers will be forced into purchasing AT&T's converter box at substantially the present cost of a new NTSC television receiver.

6. Adoption of an ATV broadcast system which is compatible with NTSC receivers, such as FIT's system, would completely obviate all concerns about the availability and cost of any future converter boxes. A NTSC-compatible standard would not force consumers to spend one penny and would allow them to watch all broadcast television programs over their present TV receivers.

⁸ AT&T Comments filed July 17, 1992, at 4.

⁹ Id.

II. Implementation of a New ATV Service in the Form of a
Pay TV Service is Not the Way to Gain Widespread
Consumer Acceptance

7. Any newly adopted ATV signal format for broadcast in the present VHF/UHF television channel allotments should be compatible with the millions of existing NTSC television receivers owned by viewers in the United States.¹⁰ The Commission has for some time required TV receivers to "be capable of adequately receiving all channels allocated by the Commission to the television broadcast service."¹¹ Owners of TV receivers thus expect that regardless of their location in any television market area, their receivers will have performance characteristics sufficient to provide useable reception of programming broadcast on any of the VHF/UHF channels.¹² The creation of an ATV broadcast signal standard that is not compatible with existing television receivers would render them incapable of adequately receiving all the broadcast television channels and thus violate the letter and intent of the All-Channel Receiver Act.¹³ Reception of incompatible ATV signals by

¹⁰ FIT Comments filed July 17, 1992, at 6-9, citing the All-Channel Receiver Act, 47 U.S.C. § 303(s). The statute was intended to assist the growth of UHF broadcasting. United States v. Southwestern Cable Co., 392 U.S. 157, 175.

¹¹ 47 C.F.R. § 15.117(b).

¹² Senate Report No. 1526 (1962), U.S. Cong. & Adm. News 1873, 1879 (1962).

¹³ 47 U.S.C. § 303(s).

existing receivers would be tantamount to viewing a "scrambled" television program without the benefit of a "descrambler" or converter box. AT&T has commented that it could make such converter boxes available to enable viewing of incompatible ATV signals on present day NTSC receivers, at a cost to all existing viewers.¹⁴

8. FIT is aware that "scrambled" television signals broadcast over channels allocated for television broadcasting, have in the past been found lawful if part of a subscription or "pay TV" service. Television owners who paid a monthly fee were provided with a box that converted the scrambled TV signals into a viewable NTSC format.¹⁵ But ATV is not supposed to be pay TV. Broadcasting scrambled or non-NTSC compatible television signals over channels allocated to the television broadcast service, whether for pay TV or ATV, is foreclosed by the All-Channel Receiver Act.¹⁶ FIT submits that unless Congress directs otherwise, NTSC compatibility of any newly adopted ATV signal standard is required as a matter of law.

¹⁴ AT&T Comments, at 4.

¹⁵ National Association of Theatre Owners v. FCC, 420 F.2d 194 (D.C. Cir. 1969). See AT&T Comments at page 4.

¹⁶ In National Association of Theatre Owners, supra, Hartford, Connecticut station WHCT was broadcasting scrambled UHF television programming after the Commission's authority to institute pay TV had been unsuccessfully challenged in Connecticut Committee Against Pay TV v. FCC, 301 F.2d 835 (D.C. Cir. 1962). The earlier challenge was filed prior to enactment of 47 U.S.C. § 303(s), however, and the statute was not asserted later in National Association of Theatre Owners.

9. Even when it authorized a pay TV service, the Commission recognized that the public's tremendous investment in their television receivers was based on their expectation of free service. "[T]he millions of viewers who rely on that service for free entertainment should be permitted to do so".¹⁷

Viewer's rights have always been considered paramount when matters of new or enhanced broadcasting services were considered and adopted by the Commission. It would be manifestly unjust to the American television viewing public to force them to purchase a new ATV receiver or converter box by a given deadline, failing which they will be cut off entirely from American television broadcasting.¹⁸ The substantial investment of viewers in their television receivers can best be protected by imposing a requirement of NTSC signal compatibility for any ATV broadcast service.¹⁹ FIT's proposed compatible transmission system would protect the investments of viewers and broadcasters alike.

¹⁷ National Association of Theatre Owners, supra, 420 F.2d at 197.

¹⁸ NTIA Comments at page 16.

¹⁹ See National Association of Theatre Owners, supra, at 197.